A Review of the New Brunswick Workers' Compensation Board

February 1987

A report from

Woods Gordon
Management Consultants

A MEMBER OF ARTHUR YOUNG INTERNATIONAL

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February 5, 1987

The Honourable Joseph Mombourquette
Minister of Labour
Province of New Brunswick
P.O. Box 6000
Fredericton, New Brunswick
E3B 5H1

Dear Mr. Minister:

We are pleased to submit herewith our report on our review of The Workers' Compensation Board as commissioned by you.

We appreciate the opportunity to have been of service to you and will look forward to working with you in the future.

Yours very truly,

Stephen T. Wace
Partner

Woods Gordon

A REVIEW OF THE NEW BRUNSWICK WORKERS' COMPENSATION BOARD

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1. TERMS OF REFERENCE AND SCOPE OF REVIEW

The Minister of Labour set forth the following terms of reference for our review of the New Brunswick Workers' Compensation Board in Phase I.

1. To review the structure of the Workers' Compensation Board with the view to facilitating its ability to respond to the interests of its client groups.

2. To examine the relationship between Workers' Compensation and the Occupational Health and Safety Commission and recommend methods to harmonize their functions.

3. To examine and make recommendations on a practical appeals system for injured workers.

4. To consult with interested parties and to gather information from the public through written briefs, oral submissions and meetings under the direction and through the participation of a Steering Committee consisting of the Minister's Policy and Research Committee on Workers' Compensation, two members of the Occupational Health and Safety Commission and a member representative of Injured Workers.

5. To make such recommendations as may be deemed appropriate with respect to issues requiring further study or consideration for Phase II.

6. To develop an implementation plan for all recommended changes.

7. To prepare a calendar of any required legislative changes.

8. To document the financial impact of any recommendations as closely as practical.

9. To report to the Minister of Labour on or before January 31, 1987.

2. METHODOLOGY

The consultants met with the Steering Committee initially on November 6, 1986 to review the role of the consultant, the role of the Steering Committee, the method of receiving input from interested parties and to arrange key meeting dates and timeframes for the study.

The Steering Committee was comprised of Richard Curry, Peter Quinn, Steve Beatteay and Alan Young representing New Brunswick employers, and Allan Levine, Gary Savoie, Bill Whalen and Louise Winchester representing New Brunswick labour. Injured workers were represented on the Committee by Hermel Theriault. Mr. Mel McGuigan of the Department of Labour acted as Committee Chairman.

It was agreed that the consultant would interview Workers' Compensation Board personnel, the Chairman and senior staff members of the Occupational Health and Safety Commission, Worker's Advocates, Solicitor for the Ombudsman as well as senior staff at the Rehabilitation Centre in Grand Bay.

During the interview process, the executive of C.U.P.E. locals at the Board requested interviews with us and we agreed.

A list of all those interviewed appears as Appendix I.

METHOD

The Committee invited written submissions from a wide range of interested parties (See Appendix II). Those submissions and were reviewed by the Committee and a selected number of those groups were invited to appear before the Committee to clarify and in many cases elaborate upon the ideas contained in their briefs.

The Committee held its hearings on Wednesday, December 17. We were impressed with the time and thought that was apparent in each presentation. A list of presenters is attached as Appendix III.

At this juncture we would like to mention that without the cooperation of those concerned and their willingness to make themselves available on short notice this review could not possibly have been completed in the allotted timeframe.

Further, it was refreshing to see the spirit of cooperation which existed on the Committee with all members in pursuit of a common goal. The Steering Committee consisting of individual members representating the seeming diverse interests of labour and management, were able to constructively debate and objectively analyze the various positions presented.

In addition to the members and staff of the Workers' Compensation Board, we must say we appreciated the openness and frankness with which we were greeted. The Board and its employees undoubtedly feel they have been "studied to death". The spectre of yet another entourage of consultants no doubt created some anxious moments. Even so, the courtesy and speed with which they responded was much appreciated.

Likewise the Occupational Health and Safety Commission, its Chairman and Executive Directors were open and frank.

A special thanks to Alana Small at the Board and Margi Carfra of the Department of Labour who provided us with much appreciated administrative support.

N.B. For purposes of clarification throughout the rest of this report we will refer to the whole of the Workers' Compensation Board including the Corporate Board and administration as the "W.C.B". Reference to the "Board" shall mean the Corporate Board alone.

3. STRUCTURE OF THE CORPORATE BOARD

3.1 FINDINGS AND CONCLUSIONS

The Workers' Compensation Board (W.C.B.) is a complex and politically sensitive organization which operates under the constant vigil of labour, management, Government, the opposition party, injured workers groups and the press.

The Board has assets of approximately $134 million including an investment portfolio of over $100 million. In 1985 the Board adjudicated over 30,000 claims.

The overseeing of an operation of this size is a major undertaking.

The present structure of the Corporate Board consists of three positions - a Chairman (presently vacant), a Vice Chairman and a Commissioner. Appointments to these positions have historically been made by the Lieutenant-Governor in Council. While not required by the legislation, labour, management and government have traditionally made nominations of their respective representatives, the appointments are still made by the Lieutenant-Governor.

Once appointed the individuals served at the "pleasure" of the Lieutenant-Governor. While some see it as an appointment for life, others see it as serving at the will of the Government since no fixed term exists.

Based on our interviews, the written and oral submissions made to us it became evident that for a great many years the Corporate Board has taken a deep personal interest in dealing both with claims as well as the day-to-day administration of the W.C.B.. Administratively, the Board has

concerned itself with everything from claims, labour relations, hiring W.C.B. staff, terminations, grievance handling to the approval of any expenditure in excess of one hundred dollars. This limit has recently been raised to $500.

No doubt such vigilance was undertaken with the best of intent. However, with the recent retirement of the Chairman of over thirty years came a change in management style which might best be described as moving from "totalitarian" to a "benevolent autocratic" style.

Cultural shifts in large and complex organizations are not easily effected. Much has been done in the past several months to move the organization towards a more open and participative management style. Participation in decision making is encouraged to a greater extent. However, there is still a long way to go.

Employees given little opportunity to exercise discretion in decision making or being overruled when they do so causes them to stop making decisions. Thus, the effect of the previous management style has been to cause managers to push decision making upwards in the organization and await the final decision to be handed down to them before taking action. The result of this process over the long term has been to stifle initiative and create morale problems at the W.C.B. Further, with the growth in volume which the organization has experienced in the past few years, huge problems have been created at the top of the organization for the Executive Director and the Board members. While delegation and control are concepts they would dearly love to practice - coping has been the name of the game.

There are effects of such a style both at the lower levels of the organization as well as on the claimants whose claims are disallowed.

Initially it results in delays in the adjudication process. These delays coupled with language and distance problems are what has given rise to approximately 95% of the complaints.

At the final stage of the appeals process over 90% of the time is spent on dealing with 10% of the claims. These are cases for which there is no simple solution. They often involve conflicting medical opinions on very complex and difficult medical conditions involving heart problems or back injuries. Even so the vast majority of claims are processed quickly and efficiently providing all the paper work is complete.

Even in difficult matters where claimants seek outside assistance, the Solicitor of the Office of the Ombudsman and the Worker's Advocates say that they meet with good cooperation from the Board and its senior staff members.

Many opinions were expressed with respect to the structure of the Corporate Board.

Representations were made to us which ranged from leaving the Board as it is, with the current vacancies filled, to replacing all but the Chairman with part-time commissioners appointed by management and labour respectively.

Generally there was consensus that:

- the role of the Corporate Board members should be redefined to distribute more decision making (i.e., both responsibility and authority) downwards in the organization to free up the time of the Board members.
- corporate Board members should only be involved in the final step in the appeals process.
- the term of appointment while it should not be less than three years should also not be for life.

- claimants and those dealing with the Board should be able to be served administratively, medically or clinically in either of the Province's official languages.

- Saint John is not a convenient location for hearings for a vast number of the Province's injured citizens with respect to hearings.

- communications and understanding between the Board and its various clientele needs improving.

- the interested groups - i.e., labour, management, government and injured workers want more accountability from the Board and more direct access to the decision making process not withstanding the W.C.B. efforts by establishing a 1-800-number.

- the Board positions be filled expeditiously following the creation of a vacancy.

- the process for filling Board vacancies be incorporated into the Act.

- a better working relationship and understanding be fostered between the Board and the Occupational Health and Safety Commission to ensure the mutual development of programs designed to achieve their common goal - the reduction of compensable accidents in the work place.

- the composition of the Board ensure consistency and continuity in both policy and decision making and administration over long periods of time.

- all clientele of the Board within the Province of New Brunswick be represented on the basis of economic regions, language, gender, organized and unorganized labour, and the five business classifications for assessments including representation from large and small firms.

- the members of the Board be experienced and proven administrators of the highest calibre with a deep understanding of the Province, its industries and its workers.

3.2 RECOMMENDATIONS

In arriving at our recommendations set forth below, we considered maintaining the three person Board, as well as going to a full-time Chairman and part-time Commissioner basis.

We strongly believe that the decision making needs to be forced down into the organization and that there is not sufficient policy level work

at the Board level to fully occupy the time of three full-time persons. Additionally, with the recommended appeals process much of the Board's time will be freed up.

Thus we began to lean towards the Chairman and part-time Commissioner propositions. However, on closer examination and interviews with those who are intimately involved with the W.C.B. and its workings the need for consistency and continuity surfaced as a major issue. With only one full-time Board member this concern could not be met and protect the system against unforeseen illnesses or accidents.

Thus we recommend:

1. That the Board of the Workers' Compensation Board be comprised of ten persons -

   - a full-time Chairman, appointed by the Lieutenant-Governor in Council, who shall be responsible to the Board and report through the Minister of Labour.

   - a full-time Vice Chairman, recommended to the Minister by the Board and appointed by the Lieutenant-Governor in Council, who would serve as Chairman of Appeals at the final step and would act as Chairman in his/her absence. The Vice Chairman shall be responsible to the Board.

   - provision should be made for an additional part-time Vice Chairman to be remunerated on a per diem basis. This individual would be available to act when the Chairman of the Appeals Process is incapacitated or otherwise unavailable to function such as when he is replacing the Chairman and the legislation would provide for the Chairman to assign this responsibility when necessary. It is anticipated the part-time Vice Chairman would have no other responsibility except when acting for the full-time Vice Chairman.

   - four part-time commissioners representing management and four part-time commissioners representing the employees.

   - It is important in the constitution of the Board that the appointments reflect the requirements of both linguistic communities and the operational imperative of dealing with its client groups in the language of their choice. In addition, representation should be ensured based on geographic location, gender, industry classification, organized and unorganized labour and large and small business.

2. The term of appointment for the Chairman and Vice Chairman should be for five (5) years with the right to renew said terms upon review of performance.

3. The term of office for the part-time commissioners would be 3 years on a staggered basis with the right to additonal renewals.

4. The Board should meet not less than six (6) times per annum and more regularly if required by the Chairman.

5. That the Board members and commissioners be removed from the Deputy Head Pay scale and that the Chairman be remunerated at the rate of $80,000 per annum plus a car as well as the other pension and benefits presently offered to employees of the W.C.B. The Vice Chairman is to be remunerated at $72,000 per annum plus a car with pension and other benefits presently offered by the Board. It is recommended that the car be at a level at least equivalent to that provided to Deputy Ministers. Annual adjustments in remuneration should be approved by the Board (N.B. For other W.C.B. Chairman's salaries see Appendix IV.) Part-time Commissioners of the Board should be paid $300 per day for attendance at Board meetings called by the Chairman or for work on sub-committees of the Board, established by the Board, plus traveling, accommodation, and meal expenses as necessary.

6. That in the event of a vacancy in either the position of Chairman or Vice Chairman a replacement appointment shall be made within a period not to exceed ninety (90) days. Similarly a vacancy in the ranks of the commissioners shall be filled within the same time frame.

7. That upon the recommendation of the Board, the Minister of Labour may remove any member of the Board prior to the completion of his/her term for cause or lack of availability. When the Chairman or Vice Chairman is terminated for other than cause, he/she will be entitled to a severance award equivalent to one year's remuneration plus one month for each full year of service completed.

8. That the position descriptions set forth in Appendix V be approved and adopted by the Board.

9. That the Board continue its role with respect to policy making, reviewing financial matters including investment strategies and results. The Chairman should assume the overall responsibility and accountability for planning and the development of a communications and public information program. The Vice Chairman should assume responsibility for the final level in the appeals/adjudication process.

10. (1) As a consequence of the above changes in the Board responsibilities the Executive Director should be given complete responsibility and authority to manage all the day-to-day operations of the W.C.B. (within pre-approved budgetary constraints) and report directly to the Board.

10. (2) Similarly, departmental Directors should be given responsibility and authority to manage within their budgets and report to the Executive Director.

(It must be recognized that this cultural shift in management style must evolve and that some managers will require more support than others in accepting and exercising this new authority.)

Certain groups who made presentations to the Steering Committee felt that they should have the right to appoint representatives to the Board who would then be "accountable" to their own constituency. With respect we cannot agree. The Steering Committee itself was a good example. The members of it were initially chosen by their principals to represent them. Once functioning, it was exhilarating to see the high degree of commonality of purpose which the management, labour and injured workers representatives pursued.

To suggest that any member of the Board is the representative of any particular group is to suggest that the Board itself is not impartial - a situation which the citizens of New Brunswick should not countenance. The object of each and every member of the Board, once appointed, should be to enforce and administer the Act with integrity and absolute fairness.

11. No person should be appointed who has a conflict of interest with the operation and/or administration of the Board.

12. The Minister of Labour should solicit recommendations for appointment of part-time commissioners from management and labour. Appointments shall be made by the Lieutenant-Governor in Council. However, in making recommendations, the Minister shall endeavour to ensure that there are two representatives of the C.M.A., one of the Construction Association of New Brunswick, one of small business, two representatives of the N.B.F.L., one of the Construction and Building Trades Council and one injured worker and that one member is female, that each of the five economic regions of the Province are represented (i.e., North East, North West, South East, South West and the Miramichi) and that at least two from employers and two from the employee side are fluently bilingual.

With the appointment of representatives of the above groups and regions having direct access and input to the W.C.B. and its policy making it is believed that the Policy and Research Committee of the Department of Labour becomes redundant. Therefore it is recommended:

13. That the Policy and Research Committee of Department of Labour should be discontinued upon the appointment of the new Board.

4. THE RELATIONSHIP WITH THE OCCUPATIONAL HEALTH AND SAFETY COMMISSION

4.1 FINDINGS AND CONCLUSIONS

We interviewed the Chairman of the OHSC and both his Executive Directors as well as the Vice Chairman of the Workers' Compensation Board and several of his key staff who interface most directly with the OHSC.

Suffice it to say that past personalities and attitudes between the former Chairmen of the two organizations have created an atmosphere of less than total cooperation. The organizations, while willing to cooperate, have been somewhat hesitant to get too close to each other. In recent months the present Chairmen have exhibited more cooperation than in the past and it is our sincere hope this momentum will continue to build.

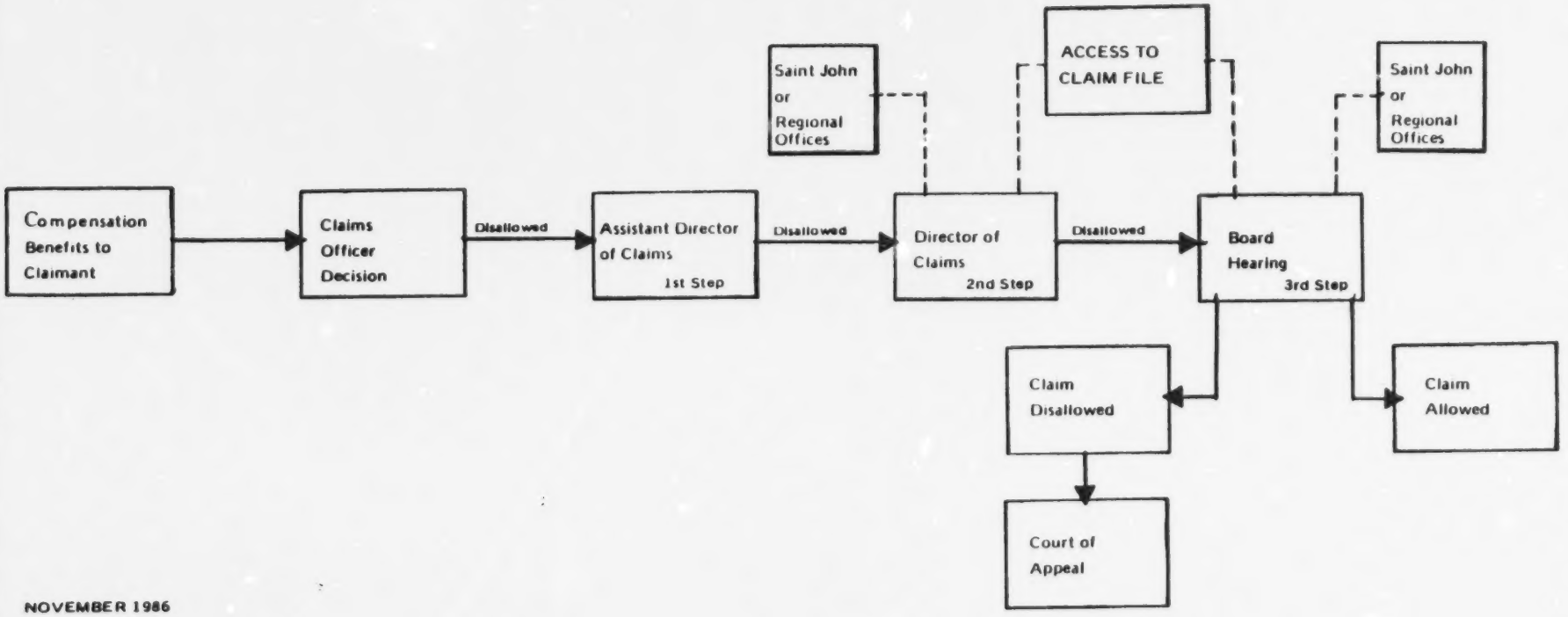
Both the W.C.B. and the OHSC share a goal, namely to reduce or eliminate occupational accidents and illnesses in the work place. It is ironic that the funding mechanism for the OHSC is based on a formula which in essence rewards their lack of success i.e., it is based on claims paid by the Board rather than in the percentage of improvement both in frequency and severity. This is an issue which should be reviewed in Phase II.

Nonetheless, it is apparent that the relationship between the two organizations could be strengthened. For example, programs developed by OHSC are geared to reducing problem issues identified by W.C.B. statistics. However, the data captured by the W.C.B. does not fully satisfy the level of detail required by the OHSC for its program development.

More work needs to be done between the two organizations on defining and capturing the information required by each organization to achieve its respective mandate.

NEW BRUNSWICK WORKERS' COMPENSATION BOARD

CLAIMS APPEAL PROCEDURE



NOVEMBER 1986

4.2 RECOMMENDATIONS

In order to improve communications and an understanding between these two organizations we make the following recommendations:

1. That the Chairman of the W.C.B. sit on the Board of the Occupational Health and Safety Commission as an ex officio member.

2. That the Chairman of the Occupational Health and Safety Commission sit on the Board of the Workers' Compensation Board on an ex-officio member.

3. That at the working level the Executive Director of Health and Safety Services and Executive Director of Policy, Planning and Administration of the OHSC sit on the W.C.B. computerization steering committee and that representatives of the W.C.B. sit on the OHSC computer committee in order to facilitate data element definition and information exchange.

4. That quarterly meetings between senior staff members of the two organizations be held to review statistical trends and needs and to discuss areas where joint activities or programs may prove beneficial to the industries and workers in New Brunswick.

5. THE APPEALS PROCESS

5.1 FINDINGS AND CONCLUSIONS

Most of the written submissions and oral presentations dealt at some significant length with the appeals process and its deficiencies.

From a statistical point of view the following chart represents the approximate level of claims adjudicated in 1986 and appeals dealt with at the various levels.

N.B. W.C.B. 1986 Claims and Appeals

	Claims	% of Total
Claims	32,000	100%
Disallowed Step 1:	± 3,200	<10%
Appeals to Asst. Director Claims	1,760	55%
Appeals to Director Claims	810	2.5%
Appeals to Board	70-120	<0.3%

It is evident from these statistics that the existing system does not function all that badly. Equally, it is fair to say that not every claimant will be satisfied with the disposition of his/her claim. Nonetheless, improvements in the system and in the perception of the way it operates could be made.

It was generally acknowledged that in fact justice is done, that the Board does exercise prudent judgement and discretion and that in the main the decisions are regarded as fair.

The present claims Appeal Procedure is set forth on the page opposite.

The following listing represents a compendium of the more significant and most often mentioned areas which need to addressed by the Appeals process:

- the appeals process needs to be sped up to provide quicker decision making at the final stage;
- claimants and their representative(s) need to be served in the language, of their choice - either French or English. This applies to administrative and medical matters as well as appeal hearings;
- appeal hearings need to be held in regional locations close to the claimants as opposed to all being held in Saint John;
- employees need to have access to their files;
- employers should be a participant in the appeal hearing;
- there needs to be more finality in the 3rd stage decision. The present system encourages numerous appeals and can be seen to raise false expectations;
- the reasons for the decision needs to be communicated to the claimant and the employer in addition to the decision itself;
- an internal review Board needs to be established to reduce the work load of the corporate Board;
- the Board should consult "independent" medical advice on difficult matters.

The biggest single issue with respect to the claims procedure is whether or not there should be an External Appeal mechanism. Most submissions made to us ran strongly against creating an external mechanism. Advocates of maintaining the internal system of appeals included management, the Société Acadiens du Nouveau Brunswick, L'Association des travailleurs accidentés de Restigouche, L'Association des travailleurs accidentés de la péninsule acadienne and the Worker's Advocates. The New Brunswick Federation of Labour and Les accidentés du travail du Nord-Ouest were the only two groups to suggest an external appeals system.

We also carefully reviewed the paper delivered by Philip Girard, Faculty of Law at Dalhousie University entitled "What's so Appealing About External Appeals". Mr. Girard makes several points with which we concur:

(a) Dissatisfaction with workers' compensation on the part of employers and workers alike is based on a concern over the lack of accountability. The boards were seen as remote, intimidating and often indifferent to the needs of their clientele.

(b) Where complaints about workers' compensation are really based on a perception or belief that the benefit system itself is unjust, then no amount of reform in the appeal process will change that. Girard suggested that often the clamour for procedural reform is motivated by a concern over substance.

(c) He concluded that in most jurisdictions debate has centred around two main themes - the accountability of Boards for their procedures and the deficiencies of the benefit scheme itself.

It is obvious from the written and oral presentations as well as the deliberations of the Steering Committee that Girard's conclusion is valid in New Brunswick's case as well. While the deficiencies of the benefit scheme and the Act are a subject more properly for Phase II of the study, the issue of accountability must be dealt with in this segment - both through the structure of the Board and in the Appeals process.

5.2 RECOMMENDATIONS

Based on the above findings, we recommend:

1. That the Appeal process remain internal.

2. That the Vice Chairman of Appeals shall select one employer representative and one employee representative from amongst the Commissioners of the Board based on language, industry experience and geographic proximity to the location of the hearing to act as members of the Appeal Tribunal. The decision of the Appeal Tribunal shall be final and binding and will be subject to review only on the basis of new evidence which in its discretion it deems to be of significant nature. The Commissioners shall be paid the $300 per diem plus expenses for sitting on the Appeals Tribunal.

3. That written reasons for the decision given by the Board shall accompany notification of the decision.

4. That the employer(s) involved in each appeal case shall be given notification of the time, date and location of the hearing and shall be afforded the opportunity to present their side of the case.

5. That appeal hearings held by the Tribunal or by the Director or Assistant of Claims be held at a regional office or a site with reasonable proximity to the claimant.

6. That all appeals of claimants be heard in either of the official languages - the choice to be that of the claimant.

7. That there be established a Board of Review to review cases appealed from the decision of the Director of Claims and prior to being heard by the Appeal Board.

8. That said Board of Review consist of the Chairman of Board of Review, the Director of Vocational Rehabilitation, and the Director of Benefit Services.

9. That it be the responsibility of the office of the Board of Review to ensure that all appeal files going to the Appeal Board for final adjudication contain appropriate information for the Appeal Board's consideration.

   In light of this added responsibility it is envisaged that this office will require a researcher and a secretary.

It is expected that the burden will be shared equitably amongst the Commissioners subject to the above criteria.

We believe that this appeals process is practical and will provide the accountability, consistency and continuity expected by the Board's clientele at a reasonable cost.

6. LIST OF LEGISLATIVE CHANGES REQUIRED

1. Section 18: revise to read:

   18 "The Board shall consist of two full-time members and eight part-time members (hereinafter called commissioners) to be appointed by the Lieutenant-Governor in Council. Four part-time members shall represent management and four part-time members shall represent employees."

2. Delete present section 19.

3. 19 "No person shall be appointed who has a conflict of interest with the operation and/or administration of the Board."

4. Section 20

   (1) as per 20(1). Add: "Such appointment shall be for a term of five (5) years with the right to reappoint upon satisfactory review of performance.
   (2) in the case of absence or inability to act or of a vacancy in the office of either Chairman or Vice Chairman the other may act and shall have all the powers of the office.
   (3) as per 20(3).
   (4) The Lieutenant-Governor in Council may, upon the recommendation of the Board, remove any member or commissioner of the Board prior to the completion of his/her term for cause or lack of availability. If the Chairman or Vice Chairman is terminated for other than cause, he/she will be entitled to a severance award equivalent to one year's remuneration plus one month for each full year of service completed.
   (5) The term of appointment for the part-time commissioners shall be three (3) years on a staggered basis with the right to reappointment upon satisfactory review of performance.
   (6) Any vacancy of a permanent nature in the Board shall be filled by appointment within a period not to exceed ninety (90) calendar days.

5. Section 21:

   Two members, so long as one is the Chairman or Vice Chairman, constitute a quorum of the Board.

6. Section 23:

   Terminate paragraph after the word "designate".

7. Section 25:

   The members shall sit at such times, "but in any event not less than six (6) times in any calendar year,".....

7. FINANCIAL IMPACT OF RECOMMENDATIONS

Based on the recommendations contained herein the following costs show the present and proposed costs together with the net increase anticipated.

1.	Present Board: 3 Members:		$182,000	
	Proposed: Chairman	$80,000		
	Vice Chairman	72,000		
	cars:	10,000		
	8 Commissioners @ $1,800	14,400		
			$176,400	($5,600)
2.	Board of Review			
	1 - Reseacher 1 - Secretary	Salary and Benefits	$55,000-$60,000	60,000
3.	Appeals Tribunal			
	2 Commissioners @ $300 ea/day			
	Avg. 1.75 days per week x 48 weeks:		$50,400	
	Expenses estimated @ 15%		7,560	$58,000

N.B. The option to a bilingual travelling appeals tribunal is simultaneous translation which it is estimated would cost $500,000 annually.

Total Increased Cost $112,400

8. ISSUES REQUIRING FURTHER STUDY

Many of the organizations which submitted briefs to the Steering Committee dealt with issues outside the scope of the mandate of Phase I of the study. Still others, due to the limitations of time and the mandate of Phase I indicated their desire to make representations during Phase II.

Those issues most frequently referred to and suggested for further study include but should not necessarily be limited to:

- o Workers Compensation - the concept - an insurance or social program?
- o Review of W.C.B. costs and control of them - including:
  - review of assessment rate setting formula
  - experience rating and averaging
  - incentives and penalties for good and poor performance
  - internal budgetary process
  - review of the roles, responsibilities, authority and accountability of staff and remuneration levels with respect thereto
  - joint employer-employee cost sharing of premiums
  - definition of accidents
  - duration, monitoring and validating claims
  - review assessable maximum annual earnings
  - review indexation of pension awards
  - eliminate or reduce unfunded liability
  - review integration and maximum level of benefits - C.P.P.
  - review 2nd Accident Fund
  - review definition of "deemed" occupation
  - review hiring of claims investigator
  - review calculation of real average earnings
- o Delivery of Services
  - English and French - facility to be served in claimants choice
  - decentralization for: - hearings
    - enquiries - a computerized centre
    - medical assessments
    - medical rehabilitation & training

  (This poses the problem of reviewing the availability of physical resources, human resources, doctors, occupational therapists and

physiotherapists as well as technical equipment in each regional hospital.) Education requirements and programs will have to be determined to meet these needs together with a cost/benefit analysis of intra vs. extra Provincial training.

- o Consolidate the Workers' Compensation Acts.*
- o Improved Administrative and Claims Productivity
- o Medical Review process - Employee/Employer Right to Independent Assessment

  Right to Employer Representation and Participation in Appeal Process
- o Access to files by employee/employer
- o Review funding formula for OHSC with respect to education and training
- o Location of and method of payment to Workers Advocates
- o Establishment of an Occupational Disease Panel
- o Location of W.C.B. Head Office
- o Economic Feasibility of Saint John Rehab Centre

In addition to the above issues, the expectation exists that regional public hearings will be conducted in at least eight areas of the Province to ensure adequate input from interested parties.

Further, it will be important to ensure that the new Board is kept fully informed of the input from these hearings and of the results of Phase II of the study to ensure its smooth implementation.

There appears to be some expectations of urgency on the part of the interested groups to proceed quickly with Phase II. If that is the case the existing Steering Committee should continue. This would enable the new Board to get its feet on the ground and to deal more objectively with the forthcoming findings and recommendations.

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APPENDIX I - LIST OF INTERVIEWEES

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APPENDIX I - LIST OF INTERVIEWEES

- Workers' Compensation Board and Executive Director
- Mr. Roland Boudreau - Vice Chairman
- Mr. Maurice Fisher - Commissioner
- Mr. Brian Baxter - Executive Director
- Mr. Bill McNulty - Board Secretary
- Mr. Irv Robertson - Director Claims
- Mr. Omer Robichaud - Asst. Director of Claims
- Mr. Victor Morin - Director Systems
- Mr. Chester Dean - Chairman Physical Assessment Committee
- Mr. Andy Rauska - Director Benefit Services
- Mr. Eric Rector - Director Financial Services
- Mr. John Doucet - Director Vocational Rehabilitation
- Ms. Diane Ormandy - Director Rehabilitation Centre
- Dr. Eric McCartney - Director Medical Treatment
- Mr. Georgio Gaudet - Chairman, OHSC
- Mr. Bryan Whitfield - Executive Director, Admin. & Planning, OHSC
- Mr. Brian Connell - Executive Director Programs & Enforcement, OHSC
- Executive of Local 946 Des Bourque
  Welman Liston
- Executive of Local 1866 Pat Allaby
  Lynda Matheson
- Mr. Charles Ferris - Solicitor, Office of the Ombudsman
- Worker's Advocates - Rick Clark, Ralph Fowler

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APPENDIX II - LIST OF SOLICITED INTEREST GROUPS

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New Brunswick Provincial Labour Council
New Brunswick Federation of Labour*
Provincial Building & Construction Trades Council*
Mechanical Contractors Association
Construction Association of New Brunswick*
Canadian Manufacturers' Association*
Hospitality New Brunswick
Provincial/Municipal Council
New Brunswick Hospital Association*
Atlantic Provinces - Chamber of Commerce*
Canadian Federation of Independent Business*
Premiers Council on the Status of Disabled Persons*
Les accidentés du travail du Nord-Ouest inc.*
L'Association des travailleurs accidentés de Restigouche*
L'Association des travailleurs accidentés de la péninsule acadienne*
Scarred for Life Association/L'Association des estropiés à vie, inc.*
New Brunswick Teachers Association
New Brunswick Teachers Federation
Association des enseignants du Nouveau-Brunswick
New Brunswick Association of Nursing Homes*
New Brunswick Occupational Health Nurses Group*
New Brunswick Occupational Health and Safety Commission*
New Brunswick Medical Society*
New Brunswick Nurses Union
Law Society of New Brunswick
Société des Acadiens du Nouveau-Brunswick*
Counseil Economique du Nouveau-Brunswick*
Maritime Employers Association/Maritime Data Centre*
Board of Management*
Office of the Ombudsman*

* Responded

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APPENDIX III - STEERING COMMITTEE HEARINGS

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APPENDIX III - STEERING COMMITTEE HEARINGS

The following groups made presentations to the Steering Committee and answered our questions:

Worker's Advocates

Canadian Manufacturers Association

New Brunswick Federation of Labour

Société des Acadiens du Nouveau Brunswick

L'Association des accidentés de la péninsule acadienne

New Brunswick Occupational Health Nurses Group

These discussions were thought provoking and incisive in their content.

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APPENDIX IV - SALARIES PAID BY OTHER W.C.B.'s

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Appendix IV

SALARY DATA UPDATED TO JANUARY 1/87

Province	# Employees	Chairman	Vice-Chairman
Alberta(1)	1,000	75,300 (60,600-90,000)	75,300 (60,600-90,000)
Saskatchewan	252	(55,000-70,000)	-
Quebec(1)	2,600	80,000	-
Nova Scotia	110	72,400	49,602
Ontario	3,800	79,200	79,200
Manitoba	260 (62,900-75,500)	69,200	-
British Columbia	1,450	72,305	-
Northwest Territories	49	75,000	-

(1) Approximate figures

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APPENDIX V - POSITION DESCRIPTIONS

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DRAFT POSITION DESCRIPTION

TITLE: Chairman - New Brunswick Workers' Compensation Board

REPORTS THROUGH: Minister of Labour and to the Board

SUMMARY OF RESPONSIBILITIES:

As Chief Executive Officer, the Chairman is responsible for the effective operation of the W.C.B. and the implementation, administration and enforcement of the Workers' Compensation Act.

SPECIFICALLY:

1. To approve operational policies to ensure congruence with the legislative requirements of the Act.

2. To represent the W.C.B. to its various constituents and publics.

3. To review the financial position of the W.C.B. including the development of investment strategies to ensure the economic viability of the W.C.B.

4. To review the performance of the Executive Director and the term appointments to the Corporate Board and to recommend changes to the Commission as required.

5. To recommend appropriate legislation changes as may be required from time-to-time to enhance the smooth functioning of the Act after consultation with and approval from the Board.

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DRAFT POSITION DESCRIPTION

TITLE: Vice-Chairman - New Brunswick Workers' Compensation Board

REPORTS TO: The Board

SUMMARY OF RESPONSIBILITIES:

Acts as Chairman of final Appeal Boards in administering the Workers' Compensation Act.

SPECIFICALLY:

1. To convene meetings of the Appeal Board as required.
2. To hear representations and to decide on disposition of Appeal cases in accordance with the spirit and intent of the Workers' Compensation Act.
3. To assist the Chairman in the administration of the Act.
4. To select Commissioners to hear appeals and to make determinations thereon.
5. To assume the duties of the Chairman in his absence.

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DRAFT POSITION DESCRIPTION

TITLE: Executive Director

REPORTS TO: Chairman of the Board and The Board

SUMMARY OF RESPONSIBILITIES:

As Chief Administrative Officer, the Executive Director is responsible for the day-to-day management of the W.C.B. and for ensuring that the wishes of the Board are carried out.

SPECIFICALLY:

1. To provide overall planning, directing and controlling of all administrative operations through subordinate managers.
2. To provide advice and guidance to the Board in the development of policies.
3. To ensure the effective implementation of policies and programs approved by the Board.
4. To inform the Board of pertinent items through the preparation of special and "ad hoc" reports.
5. To coordinate the development and preparation of the annual operating and capital budgets.
6. To monitor the financial position of the W.C.B. and to take corrective action as required.
7. To be held accountable for the performance of staff in the performance of their duties through subordinate managers, as required.
8. To negotiate with the unions representing employees of the W.C.B. subject to constraints imposed by the Board. To resolve employee grievances and complaints.

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DRAFT POSITION DESCRIPTION

TITLE: Chairman - Board of Review

REPORTS TO: Vice-Chairman of the Board

SUMMARY OF RESPONSIBILITIES:

To review all appeals arising from the second step of the appeal process for completeness prior to forwarding to the Appeal Board.

SPECIFICALLY:

1. To review files for completeness prior to forwarding to Appeal Board.
2. To request additional documentation necessary to complete the file.
3. To review past cases for similarities/differences to ensure full facts and precedents accompany the final.
4. To make the necessary arrangements for Appeal Board hearings including selection of Appeal Board members with due regard to linguistic preferences of the appellant, and the venue for the hearing.
5. To serve notice to all interested parties of the Appeal hearing and to receive submissions related to the appeal.
6. To communicate the appeal decision to the appellant and interested parties appearing before the Appeal Board.